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22BU-CC01283 - RACHEL S TOLLIVER V PREFERRED FAMILY  
HEALTHCARE, I (E-CASE)

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12/15/2022 ☐ Certificate of Service

CERTIFICATE OF SERVICE Plaintiffs Answers to Defendants First Request for Admissions;  
Electronic Filing Certificate of Service.

Filed By: ANTONETTE MARIE DUPREE

On Behalf Of: RACHEL SIMONE TOLLIVER

12/09/2022 ☐ Sound Recording Log Sheet☐ Jury Trial Scheduled

Scheduled For: 01/09/2024; 9:00 AM ; DANIEL F KELLOGG; Buchanan

☐ Trial Setting Held

PLAINTIFF APPEARS BY ATTORNEY. DEFENDANT APPEARS BY ATTORNEY.

Scheduled For: 12/09/2022; 8:30 AM ; DANIEL F KELLOGG; Buchanan

11/28/2022 ☐ Cert Serv of Req for Admission

Certificate of Service; Electronic Filing Certificate of Service.

Filed By: KARLY DORANN WEIGEL

On Behalf Of: PREFERRED FAMILY HEALTHCARE, INC

☐ Answer Filed

Filed By: KARLY DORANN WEIGEL

☐ Entry of Appearance Filed

ENTRY OF APPEARANCE Electronic Filing Certificate of Service.

Filed By: KARLY DORANN WEIGEL

☐ Entry of Appearance Filed

ENTRY OF APPEARANCE; Electronic Filing Certificate of Service.

Filed By: ALAN LLOYD RUPE

On Behalf Of: PREFERRED FAMILY HEALTHCARE, INC

10/28/2022 ☐ Notice of Service

RETURN OF SERVICE ALIAS SUMMONS IN CIVIL CASE; Electronic Filing Certificate of Service.

☐ Family Member/Roommate Served

Document ID - 22-SMCC-749; Served To - PREFERRED FAMILY HEALTHCARE, INC; Server - ;  
Served Date - 28-OCT-22; Served Time - 11:57:00; Service Type - Special Process Server; Reason  
Description - Served; Service Text - STACY HUDSON

10/26/2022 ☐ Alias Summons Issued

Document ID: 22-SMCC-749, for PREFERRED FAMILY HEALTHCARE, INC.

☐ **Note to Clerk eFiling**

**Filed By:** ANTONETTE MARIE DUPREE

☐ **Alias Summons Requested**

ALIAS SUMMONS REQUESTED FOR PREFERRED FAMILY HEALTHCARE INC.

**Filed By:** ANTONETTE MARIE DUPREE

**On Behalf Of:** RACHEL SIMONE TOLLIVER

☐ **Note to Clerk eFiling**

**Filed By:** ANTONETTE MARIE DUPREE

☐ **Notice of Service**

SUMMONS IN CIVIL CASE NOT SERVED TO PREFERRED FAMILY HEALTHCARE INC.  
SCANNED UNDER RETURN FILED 10-26-22.

**Filed By:** ANTONETTE MARIE DUPREE

**On Behalf Of:** RACHEL SIMONE TOLLIVER

☐ **Summons Returned Non-Est**

Document ID - 22-SMCC-631; Served To - PREFERRED FAMILY HEALTHCARE, INC; Server - ;  
Served Date - 26-OCT-22; Served Time - 11:55:00; Service Type - Other; Reason Description - Non-  
est; Service Text - NOT SERVED IN TIME, NON-EST

09/20/2022 ☐ **Order - Special Process Server**

ORDER FOR APPOINTMENT OF SPECIAL PROCESS SERVER

☐ **Motion Special Process Server**

Motion and Order to Appoint Special Process.

**Filed By:** ANTONETTE MARIE DUPREE

**On Behalf Of:** RACHEL SIMONE TOLLIVER

09/16/2022 ☐ **Summons Issued-Circuit**

Document ID: 22-SMCC-631, for PREFERRED FAMILY HEALTHCARE, INC.

☐ **Trial Setting Scheduled**

**Associated Entries:** 12/09/2022 - **Trial Setting Held** 📅

**Scheduled For:** 12/09/2022; 8:30 AM ; DANIEL F KELLOGG; Buchanan

09/12/2022 ☐ **Filing Info Sheet eFiling**

**Filed By:** ANTONETTE MARIE DUPREE

☐ **Pet Filed in Circuit Ct**

Plaintiffs Original Petition for Damages.

**Filed By:** ANTONETTE MARIE DUPREE

**On Behalf Of:** RACHEL SIMONE TOLLIVER

☐ **Judge Assigned**

Case 5:22-cv-06143-DGK Document 1-2 Filed 12/29/22 Page 3 of 44

**JURISDICTION AND VENUE**

5. Defendant is an employer by and within the meaning of subsection (8) of § 213.010 of the MHRA.
6. Plaintiff filed a timely Charge of Discrimination with both the EEOC and the Missouri Commission on Human Rights (MCHR), which alleged that the Defendant engaged in harassing and discriminatory actions that are being raised in this lawsuit, or alternatively, the alleged conduct herein would have arisen from the investigation of such charge.
7. A notice of Right to Sue (RTS) was issued on June 14, 2022 from the MCHR and this action is being brought within ninety (90) days from its issuance and not more than two (2) years from the date of her resignation (constructive discharge) from employment or the date of the last adverse employment action by Defendant October 27, 2021.
8. As such, Plaintiff has fulfilled all conditions precedent to the bringing of this claim and has duly exhausted all administrative remedies prior to instituting this lawsuit in accordance with the law.
9. Venue is proper as the events which make up the basis for all causes of action plead in this Petition occurred within the city of St. Joseph, Missouri.

**FACTS APPLICABLE TO ALL COUNTS**

10. On Saturday, May 9, 2020, Plaintiff's Mother passed away.
11. Per Defendant's policy, Plaintiff was given three (3) days of bereavement to mentally process her Mother's death and deal with her affairs.
12. Plaintiff returned back to work the following Tuesday, May 12, 2020, after using only one (1) bereavement day of the three (3) she had available.

13. Plaintiff was never really able to process her Mother's death but was thrown back into a very hectic work schedule during the COVID pandemic.
14. During this time, Plaintiff inquired about the possibility of utilizing FMLA leave but was told that she would first have to exhaust all her personal time off (PTO).
15. On June 3, 2020, Plaintiff was given an Employee Disciplinary Counseling Report for lack of production.
16. Not only was Plaintiff the only Black employee at Defendants place of business, but she was the only employee within the organization to receive such disciplinary action, during the beginning of the COVID pandemic, a mere months after the world had all but been shut down for several weeks.
17. Plaintiff began to feel she had a target on her back which persisted and became worse as time went on.
18. A colleague of Plaintiff's told her that she had overheard Plaintiff's Supervisor say to another Supervisor that she felt Plaintiff used her race to connect with her client base.
19. Plaintiff was charged with counseling troubled youth with substance-abuse issues, and it was important that she won the trust of her client base.
20. If connecting with the client base because her race provided common ground, then it seems that only benefitted Defendant.
21. Doing so, did not violate any policies of Defendant and should not have been used as a basis to form a negative opinion of Plaintiff or to have justified disciplinary action.
22. On July 15, 2020 Plaintiff was asked to provide Defendant with a written plan to show how she would achieve 26 hours of face-to-face contact or to validate 65% of her work schedule.

23. Plaintiff again felt singled out by this request given that it was the middle of a pandemic and none of her similarly situated Caucasian colleagues were being held to these same standards of productivity.
24. Plaintiff felt that substantiating twenty-six (26) hours of face time was a big ask during a pandemic and felt she was being set up to fail.
25. On September 10, 2020, Plaintiff was again asked to substantiate why she was only able to obtain fifteen (15) hours of face time with clients during a week when two (2) other employees were out of the office.
26. Plaintiff addressed the fact that during that week she had helped with duties of the absent employees and also mentioned that along with never getting to grieve her Mother's passing, she was also the only caregiver for a sick Grandmother who had been in the hospital.
27. Plaintiff was managing the extra workload and dealing with personal issues while getting no support from anyone at her job.
28. In October 2020, Defendant hired a new Clinical Supervisor.
29. Plaintiff was frustrated because she felt that she was not valued by Defendant and was not given an opportunity to apply for the position because of her race and the negative opinion of her superiors had of her because she was a Black woman.
30. As a result of her frustrations and burn out she began seeing a counselor to help with the anxiety and depression she was feeling by not having adequate time to process her Mother's passing and being disciplined for productivity related issues when no one else she worked with was facing this same pressure.
31. On April 5, 2021, Plaintiff's Grandmother passed away.

32. Plaintiff requested time off via FMLA on April 8, 2021 for the period of April 14, 2021 through May 7, 2021.
33. Defendant responded to her request by advising her that she would need to provide documentation for the absences to be covered.
34. Plaintiff provided the necessary paperwork.
35. On May 10, 2021, Defendant stated that more information would need to be provided in order to process her request for time off.
36. Plaintiff responded that while she understood she was in fact quite upset that her mental health was not being taken seriously given she was charged with providing counseling to others.
37. Plaintiff's FMLA was finally approved on May 25, 2021.
38. During her absence, Plaintiff tried to work with Defendant to reach agreement on a reasonable accommodation which had been suggested by her healthcare provider and entailed Plaintiff working shortened shifts.
39. Written requests by the doctor were submitted four (4) times which stated that Plaintiff was approved to return back to work, but Defendant was so inconsistent with communication that her return was not approved until June 1, 2021.
40. This resulted in Plaintiff having exhausted all her available PTO time through no fault of her own, which left her all the more stressed out.
41. On June 10, 2021 Plaintiff was advised that they would not accommodate her request for shortened shifts and was only approved FMLA leave for doctor's appointments.

42. Plaintiff continued performing her job with burnout and no reasonable accommodations despite substantiation of a need from her doctor and despite her lawful requests under the MHRA.
43. Defendant continued to be critical of her work.
44. On September 28, 2021, Plaintiff transported a client to a Joplin Healthcare facility.
45. The client (a minor) was quite distressed about going there and began to cry upon arrival and communicated to Plaintiff that she was having second thoughts about staying at the facility for treatment.
46. Plaintiff provided words of encouragement and gave the client a hug (which was requested by the client).
47. Plaintiff was disciplined for giving the client a hug when she returned to the St. Joseph facility.
48. On October 7, 2021, Plaintiff was given a self-evaluation during which Defendant brought up Plaintiff's burnout that they did nothing to lessen, while still not reasonably accommodating Plaintiff.
49. In all her frustration, Plaintiff finally could not bear working for Defendant another day, sent in a letter of resignation due to constructive discharge to Defendant on October 27, 2021.
50. Defendant did not let allow her to continue working and instead terminated the relationship that day.

#### **COUNT I: RACE DISCRIMINATION**

For Count I of her Petition against Defendant, Plaintiff states the following:



51. Plaintiff incorporates by reference all allegations previously and hereafter stated into Count I of her Petition.
52. Defendant has discriminated against Plaintiff by applying unequal standards relating to productivity and work performance to all other similarly situated Caucasian counterparts working for Defendant.
53. The application of unequal standards as applied to Plaintiff in relation to all other similarly situated Caucasian counterparts working for Defendant changed the terms and conditions of Plaintiff's employment with Defendant.
54. The Plaintiff complained to her employer of the unequal standards and treatment to no avail.
55. The Plaintiff's race, African American was the motivating factor in the unequal treatment experienced by Plaintiff in the workplace .
56. Because of Defendants discriminatory practices based on race, the Plaintiff and other similarly situated individuals have been deprived of the opportunity to work in an environment free of unequal treatment.
57. All actions or inactions of or by Defendant occurred by or through its agents, servants, or employees acting within the scope of their employment with Defendant as set forth herein.
58. As a direct and proximate cause of the unlawful, discriminatory conduct of the Defendant, Plaintiff has sustained damages which include, damages finances, career damage and diminished career potential, mental distress and anguish in the form embarrassment, degradation, humiliation, anxiety, loss of enjoyment of life, loss of sleep, and other non-pecuniary losses.

**WHEREFORE**, Plaintiff prays for judgment against Defendant for actual damages, in an amount

that is fair and reasonable, all costs, expenses, expert witness fees and attorneys' fees incurred herein, for interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

## **COUNT II: DISABILITY DISCRIMINATION**

For Count II of her Petition against Defendant, Plaintiff states the following:

59. Plaintiff incorporates by reference all allegations previously and hereafter stated into Count II of her Petition.
60. After losing both her Mother and Grandmother within a year and having Defendant place unequal standards upon Plaintiff's work causing her severe burnout, Plaintiff sought leave under the FMLA for work-related stress, Posttraumatic Stress Disorder (PTSD), and Manic Depressive and/or Bi-polar Disorder as diagnosed by her doctor.
61. After a short period of time off, Plaintiff returned to work.
62. Upon doing so, Plaintiff requested Defendant sit down with her for the purpose of engaging in an interactive process under the MHRA disability discrimination provisions to provide Plaintiff with reasonable accommodations for her disabilities.
63. Plaintiff had a disability by and within the meaning of Mo. Rev. Stat. § 213.010(5) in that she had a physical or mental impairment, Manic Depressive and/or Bipolar Disorder (PTSD) which was temporary, but which substantially limited one or more of Plaintiff's major life activities, being regarded as having such an impairment, or a record of having such an impairment which with or without reasonable accommodation does not interfere with performing the essential functions of the job.
64. Although Defendant engaged with Plaintiff in an interactive process to determine if reasonable accommodations could be made for Plaintiff's disability, she was denied any

reasonable accommodation despite Plaintiff providing evidence to Defendant of her disability via doctor's notes and recommendations and despite the fact that the accommodation she sought was temporary and reasonable in that it required her to work shortened days for a period of time.

65. The denial of reasonable accommodations for Plaintiff's disability constitutes illegal discrimination based on Plaintiff's disabilities in violation of the MHRA.
66. As a direct and proximate cause of the unlawful, discriminatory conduct of the Defendant, Plaintiff has sustained damages which include, damages finances, career damage and diminished career potential, mental distress and anguish in the form embarrassment, degradation, humiliation, anxiety, loss of enjoyment of life, loss of sleep, and other non-pecuniary losses.

**WHEREFORE**, Plaintiff prays for judgment against Defendant for actual damages, in an amount that is fair and reasonable, all costs, expenses, expert witness fees and attorneys' fees incurred herein, for interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

**COUNT III: HOSTILE AND OFFENSIVE WORK ENVIRONMENT  
BASED ON DISABILITY**

For Count III of her Petition against Defendant, Plaintiff states the following:

67. Plaintiff incorporates by reference all allegations previously and hereafter stated into Count III of her Petition.
68. Plaintiff has been subjected to a continuing hostile and offensive work environment which she found and which a reasonable person would find to be offensive, including persistently unequal treatment in the form of multiple disciplinary actions and the denial of reasonable accommodations for her disabilities, which included Manic Depressive/Bipolar Disorder

and PTSD as a result of burn out and not being able to manage the grief associated with multiple deaths in her family.

69. Plaintiff's disability, record and history of said disability were the motivating factor in the hostile and offensive work environment experienced by Plaintiff.
70. The unwelcome conduct created by the hostile and offensive work environment had the purpose and effect of substantially interfering with Plaintiff's work performance or creating a hostile and offensive work environment.
71. As a direct and proximate cause of the unlawful, discriminatory conduct of the Defendant, Plaintiff has sustained damages which include, damages finances, career damage and diminished career potential, mental distress and anguish in the form embarrassment, degradation, humiliation, anxiety, loss of enjoyment of life, loss of sleep, and other non-pecuniary losses.

**WHEREFORE**, Plaintiff prays for judgment against Defendant for actual damages, in an amount that is fair and reasonable, all costs, expenses, expert witness fees and attorneys' fees incurred herein, for interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all of the allegations contained in this Petition that are triable before a jury.

Respectfully Submitted,

**A.D. LITIGATION & ESTATE PLANNING, LLC**

/s/ Antonette M. DuPree, Esq.

Antonette M. DuPree, MBN 70039

1301 Oak Street. Suite 610  
Kansas City, MO 64106  
Ph: (816) 643-4152  
Fax: (816) 643-4778  
Email: [antonette@adlitigationep.com](mailto:antonette@adlitigationep.com)

**ATTORNEY FOR PLAINTIFF**



# IN THE 5TH JUDICIAL CIRCUIT, BUCHANAN COUNTY, MISSOURI


Judge or Division: DANIEL F KELLOGG	Case Number: 22BU-CC01283
Plaintiff/Petitioner: RACHEL SIMONE TOLLIVER	Plaintiff's/Petitioner's Attorney/Address ANTONETTE MARIE DUPREE 4014 B SOUTH LYNN COURT INDEPENDENCE, MO 64055
Defendant/Respondent: PREFERRED FAMILY HEALTHCARE, INC	Court Address: BUCHANAN CO COURTHOUSE 411 JULES ST SAINT JOSEPH, MO 64501
Nature of Suit: CC Employmnt Discrmntn 213.111	STATUS REVIEW HEARING DATE: DECEMBER 9, 2022 @ 8:30 AM, DIV 4

(Date File Stamp)

## Summons in Civil Case

**The State of Missouri to:** PREFERRED FAMILY HEALTHCARE, INC  
Alias:

**SERVE:** MICHAEL SCHWEND  
900 EAST LAHARPE  
P.O. BOX 767  
KIRKSVILLE, MO 63501

**COURT SEAL OF**  
  
**BUCHANAN COUNTY**

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

9/16/2022      /s/Sara Brewer  
Date      Clerk

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.

☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

\_\_\_\_\_  
Printed Name of Sheriff or Server      Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**  
Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)      My commission expires: \_\_\_\_\_  
Date      Notary Public

**Sheriff's Fees, if applicable**

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

**RACHEL TOLLIVER**

*Plaintiff,*

**Y.**

**PREFERRED FAMILY HEALTHCARE, INC.**

***Defendant.***

Case No. 22BU-CC01283

**PLAINTIFF'S MOTION AND PROPOSED ORDER FOR APPROVAL OF SPECIAL  
PROCESS SERVER**

COMES NOW Plaintiff, by and through its attorney of record, and for its Motion for Approval/Appoint of Private Process Server, and requests that D&B Legal Services, Inc.: Legal Names (s):

Alisha Allen PPS22-0001  
Sallie Bailey PPS22-0003  
Carl Barnett PPS22-0254  
Thomas Bogue PPS22-0118  
Matthew Bohrer PPS22-0258  
Arthur Boyer PPS22-0006  
Scott Brady PPS22-0008  
Nicholas Bull PPS22-0011  
Gary Burt PPS22-0012  
Bobby Calvert PPS22-0124  
Carolyn Champlin PPS22-0013  
Michael Conklin PPS22-0267  
Lisa Corbett PPS22-0269  
Norman Diggs PPS22-0274  
Edwina Ditmore PPS22-0275  
Andrew Downs PPS22-0016  
Chris Drummond PPS22-0017  
Anthony Dunne PPS22-0519  
William Ferrell PPS22-0022  
Robert Finley PPS22-0023  
Brandon Fisher PPS22-0024  
Dana Fortner PPS22-0286  
John Frago PPS22-0026  
Brad Gordon PPS22-0144  
Tom Gorgone PPS22-0145  
Charles Gunning PPS22-0028  
James Hannah PPS22-0030  
Rufus Harmon PPS22-0031

Zackery Hayes PPS22-0033  
Stephen Heitz PPS22-0035  
Bridgette Hight PPS22-0293  
Wendy Hilgenberg PPS22-0037  
James Hise PPS22-0294  
Jennifer Hyman PPS22-0586  
Robyn Jackson PPS22-0043  
Tawanda Johnson PPS22-0166  
Patrick Jones PPS22-0167  
Chelsea Ketron PPS22-0044  
Leisa Ketron PPS22-0045  
Brent Kirkhart PPS22-0046  
Janice Kirkhart PPS22-0047  
Tyler Kirkhart PPS22-0048  
Cody Kyser PPS22-0049  
Raymond Land PPS22-0303  
Frank Lundien PPS22-0055  
Chad Maier PPS22-0312  
Lyle Malcom PPS22-0313  
Kenneth Marshall PPS22-0057  
Michael Meador PPS22-0060  
Heather Merfen PPS22-0061  
Ashlyn Miller PPS22-0560  
Matthew Millhollin PPS22-0062  
Jason Moody PPS22-0065  
Jeremy Nicholas PPS22-0194  
Michael Noble PPS22-0196  
Greg Noll PPS22-0068  
Tory Owens PPS22-0071

Bob Peters PPS22-0327  
Carrie Pfeifer PPS22-0203  
Craig Poesse PPS22-0073  
Anthony Powell PPS22-0329  
Dee Powell PPS22-0075  
Samantha Powell PPS22-0076  
William Powell PPS22-0077  
Curtis Press PPS22-0079  
Kenneth Prewett PPS22-0080  
Mark Rauss PPS22-0082  
Jorge A Rivera PPS22-0214  
Jason Rodgers PPS22-0088  
Richard Roth PPS22-0091  
Kathy Rulo PPS22-0338  
Lawanda Rauss PPS22-0499  
Edna Russell PPS22-0093  
Brenda Schiwitz PPS22-0094  
Dylan Schneider PPS22-0340  
Mark Schneider PPS22-0341  
Westley Seifert PPS22-0220  
Thomas Skinner PPS22-0224  
Richard Skyles PPS22-0095  
Anthony Spada PPS22-0228  
Randy Stone PPS22-0229  
Carrie Stroup PPS22-0350  
Summer Smith PPS22-0609  
Daniel Swinney PPS22-0578  
Robert Torrey PPS22-0355  
Rachel Trask PPS22-0595

Lucas Traugott PPS22-0356  
Daniel Wagner PPS22-0099  
Kenneth Wallace PPS22-0100  
Ryan Weekley PPS22-0101  
Robert Weishar PPS22-0102  
Andrew Wheeler PPS22-0103  
Andrew Wickliffe PPS22-0104

Gregory Willing PPS22-0105  
Conni Wilson PPS22-0107  
Allen Yoder PPS22-0366  
Rod Yoder PPS22-0367  
Stan Yoder PPS22-0368  
Greg Zotta PPS22-011



who are qualified persons to serve process, are not parties to the case and are not less than eighteen (18) years of age, as private process servers in the above cause to serve process in this case.

Respectfully Submitted,

**A.D. LITIGATION & ESTATE PLANNING, LLC**

/s/ Antonette M. DuPree, Esq.

Antonette M. DuPree, MBN 70039

1301 Oak Street, Suite 610

Kansas City, MO 64106

Ph: (816) 643-4152

Fax: (816) 643-4778

Email: [antonette@adlitigationep.com](mailto:antonette@adlitigationep.com)

**ATTORNEY FOR PLAINTIFF**

**ORDER**

It is hereby ordered that the Plaintiff's Motion for Approval and Appointment of private process server is granted and the above-named individuals are hereby approved and appointed to serve process in the above-captioned matter.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge or Clerk



Lucas Traugott PPS22-0356  
Daniel Wagner PPS22-0099  
Kenneth Wallace PPS22-0100  
Ryan Weekley PPS22-0101  
Robert Weishar PPS22-0102  
Andrew Wheeler PPS22-0103  
Andrew Wickliffe PPS22-0104

Gregory Willing PPS22-0105  
Conni Wilson PPS22-0107  
Allen Yoder PPS22-0366  
Rod Yoder PPS22-0367  
Stan Yoder PPS22-0368  
Greg Zotta PPS22-011

who are qualified persons to serve process, are not parties to the case and are not less than eighteen (18) years of age, as private process servers in the above cause to serve process in this case.

Respectfully Submitted,

**A.D. LITIGATION & ESTATE PLANNING, LLC**

/s/ Antonette M. DuPree, Esq.

Antonette M. DuPree, MBN 70039

1301 Oak Street, Suite 610

Kansas City, MO 64106

Ph: (816) 643-4152

Fax: (816) 643-4778

Email: [antonette@adlitigationep.com](mailto:antonette@adlitigationep.com)

**ATTORNEY FOR PLAINTIFF**

**ORDER**

It is hereby ordered that the Plaintiff's Motion for Approval and Appointment of private process server is granted and the above-named individuals are hereby approved and appointed to serve process in the above-captioned matter.

Date: 9/20/2022

/s/Barbara Shryock

~~Judge~~ Clerk



## IN THE 5TH JUDICIAL CIRCUIT, BUCHANAN COUNTY, MISSOURI

Judge or Division: DANIEL F KELLOGG	Case Number: 22BU-CC01283
Plaintiff/Petitioner: RACHEL SIMONE TOLLIVER	Plaintiff's/Petitioner's Attorney/Address ANTONETTE MARIE DUPREE 4014 B SOUTH LYNN COURT INDEPENDENCE, MO 64055
Defendant/Respondent: PREFERRED FAMILY HEALTHCARE, INC	Court Address: BUCHANAN CO COURTHOUSE 411 JULES ST SAINT JOSEPH, MO 64501 STATUS REVIEW HEARING DATE: DECEMBER 9, 2022 @ 8:30 AM, DIV 4
Nature of Suit: CC Employmnt Discrmntn 213.111	(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: PREFERRED FAMILY HEALTHCARE, INC

Alias:

SERVE: MICHAEL SCHWEND  
900 EAST LAHARPE  
P.O. BOX 767  
KIRKSVILLE, MO 63501

COURT SEAL OF



BUCHANAN COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

9/16/2022

Date

/s/Sara Brewer

Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☐ delivering a copy of the summons and petition to the defendant/respondent.  
☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.  
☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☒ other: Not served in time Non-est

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



*& estate planning, llc*

Antonette DuPree, Esq. MO, E.D. KS

October 26, 2022

Efiled with Court

Ashley Thrasher, Circuit Court Clerk  
Haley, Clerk of Div. 4

Re: Request for new Alias Summons': *Rachel Tolliver v. Preferred Family Healthcare, Inc.* - Case No. 22BU-CC01283

Good day ladies,

I am needing to request a new summons in this case. We apologize. After not receiving back an affidavit of service within a reasonable amount of time we got to investigating and realized that while we had attempted to send an email with the service packet, it did not actually go through and we just realized it about a week too late. We do again apologize for any inconvenience this may cause you. I have included the name of the President of the company as well as the principle place of business/corporate headquarters address below:

Michael Schwend, President  
900 E LaHarpe Street  
Kirksville, MO 63501

Please let me know should you need any further information.

Best Regards,

/s/ Antonette M DuPree, MBN 70039

1301 Oak Street, Suite 610, Kansas City, MO 64106 | (816) 643-4152 | [adlitigationep.com](http://adlitigationep.com)  
Employment Discrimination | Personal Injury | Estate Planning



# IN THE 5TH JUDICIAL CIRCUIT, BUCHANAN COUNTY, MISSOURI

Judge or Division: <b>DANIEL F KELLOGG</b>	Case Number: <b>22BU-CC01283</b>
Plaintiff/Petitioner: <b>RACHEL SIMONE TOLLIVER</b>	Plaintiff's/Petitioner's Attorney/Address <b>ANTONETTE MARIE DUPREE</b> <b>4014 B SOUTH LYNN COURT</b> <b>INDEPENDENCE, MO 64055</b>
Defendant/Respondent: <b>PREFERRED FAMILY HEALTHCARE, INC</b>	Court Address: <b>BUCHANAN CO COURTHOUSE</b> <b>411 JULES ST</b> <b>SAINT JOSEPH, MO 64501</b>
Nature of Suit: <b>CC Employmnt Discrmntn 213.111</b>	<b>TRIAL SETTING SET FOR:</b> <b>DECEMBER 9, 2022 AT 8:30 AM, DIV 4</b>

(Date File Stamp)

## ALIAS Summons in Civil Case

The State of Missouri to: **PREFERRED FAMILY HEALTHCARE, INC**  
Alias:

SERVE:  
**MICHAEL SCHWEND, PRESIDENT**  
**900 EAST LAHARPE ST**  
**P.O. BOX 767**  
**KIRKSVILLE, MO 63501**

COURT SEAL OF



BUCHANAN COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

10/26/2022

Date

/s/Barbara Shryock

Clerk

Further Information:

### Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

- ☐ delivering a copy of the summons and petition to the defendant/respondent.
- ☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.
- ☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

### Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ \_\_\_\_\_

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

2022-1172  
RETURN

## IN THE 5TH JUDICIAL CIRCUIT, BUCHANAN COUNTY, MISSOURI

Judge or Division: DANIEL F KELLOGG	Case Number: 22BU-CC01283
Plaintiff/Petitioner: RACHEL SIMONE TOLLIVER	Plaintiff's/Petitioner's Attorney/Address ANTONETTE MARIE DUPREE 4014 B SOUTH LYNN COURT INDEPENDENCE, MO 64055
Defendant/Respondent: PREFERRED FAMILY HEALTHCARE, INC	Court Address: BUCHANAN CO COURTHOUSE 411 JULES ST SAINT JOSEPH, MO 64501
Nature of Suit: CC Employmnt Discrmntn 213.111	TRIAL SETTING SET FOR: DECEMBER 9, 2022 AT 8:30 AM, DIV 4

(Date File Stamp)

## ALIAS Summons in Civil Case

The State of Missouri to: PREFERRED FAMILY HEALTHCARE, INC  
Alias:SERVE:  
MICHAEL SCHWEND, PRESIDENT  
900 EAST LAHARPE ST  
P.O. BOX 767  
KIRKSVILLE, MO 63501

COURT SEAL OF



BUCHANAN COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

10/26/2022

Date

/s/Barbara Shryock

Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.☒ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with Stacy Hudson, a person at least 18 years of age residing therein.☐ (for service on a corporation) delivering a copy of the summons and petition to:

(name) (title)

☐ other:Served at 900 E. La Harpe, Kirksville, MO 63501 (address)in Adair (County/City of St. Louis), MO, on 10/28/22 (date) at 1157 (time).Chris Stivers

Printed Name of Sheriff or Server

[Signature]

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on (date).

(Seal)

My commission expires:

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$

Non Est \$

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ ( miles @ \$. per mile)

Total \$

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



## Adair County Sheriff's Office

215 N Franklin St., Kirksville, MO 63501

## SERVICE SHEET

Case Number  
22BU-CC01283Service Requested By  
ANTONETTE DUPREEReceipt Number  
INVOICEPetitioner vs Respondent  
RACHEL TOLLIVER VS PREFERRED FAMILY  
HEALTHCARECase Type  
CIVIL SUMMONSService Record Number  
2022-1172Serve NLT  
11/29/2022Deputy Assigned  
556

Party to be Served

Name SCHWEND, MICHAEL

## Cautions:

Special Instructions: SERVE PREFERRED FAMILY MICHAEL SCHWEND 900 E LAHARPE  
KIRKSVILLE

## Service Attempts

Date	Time	DSN	Comments	Miles
			Stacy Hudson chaf 1st option	

☒ SERVED DATE 10/28/22 TIME 1157 DEPUTY Stivers MILES \_\_\_\_\_  
LOCATION SERVED 900 E. LaHarpe

☐ NON - EST DETAILS ARE REQUIRED BELOW

☐ MOVED, NEW ADDRESS \_\_\_\_\_

☐ MOVED, NO FORWARDING ADDRESS DISCOVERED

☐ UNABLE TO LOCATE

DETAIL EFFORTS TO LOCATE \_\_\_\_\_

☐ ADDRESS NOT IN ADAIR COUNTY PROVIDE COUNTY NAME IF KNOWN \_\_\_\_\_

☐ OUT OF TIME

DETAIL WHY \_\_\_\_\_

☐ RECALLED BY COURT

IN THE CIRCUIT COURT OF ANDREW AND BUCHANAN COUNTY  
STATE OF MISSOURI

RACHEL TOLLIVER,

Plaintiff,

v.

PREFERRED FAMILY HEALTHCARE, INC.,

Defendant.

Case No. 22BU-CC01283

**ENTRY OF APPEARANCE**

Alan L. Rupe, of the law firm of Lewis Brisbois Bisgaard & Smith LLP, hereby enters his appearance as counsel for Defendant Preferred Family Healthcare, Inc.

/s/ Alan L. Rupe

Alan L. Rupe, MO #56013

LEWIS BRISBOIS BISGAARD & SMITH LLP

4600 Madison Avenue, Suite 700

Kansas City, MO 64112

Telephone: 816-299-4244

Facsimile: 816-299-4245

alan.rupe@lewisbrisbois.com

*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2022 the above Entry of Appearance was filed using the court's electronic filing system which will send notice to all counsel of record.

/s/ Alan L. Rupe

Alan L. Rupe

**IN THE CIRCUIT COURT OF ANDREW AND BUCHANAN COUNTY  
STATE OF MISSOURI**

RACHEL TOLLIVER,

Plaintiff,

v.

PREFERRED FAMILY HEALTHCARE, INC.,

Defendant.

Case No. 22BU-CC01283

**ENTRY OF APPEARANCE**

Karly D. Weigel, of the law firm of Lewis Brisbois Bisgaard & Smith LLP, hereby enters her appearance as counsel for Defendant Preferred Family Healthcare, Inc.

/s/ Karly D. Weigel

Karly D. Weigel, MO #70410

LEWIS BRISBOIS BISGAARD & SMITH LLP

4600 Madison Avenue, Suite 700

Kansas City, MO 64112

Telephone: 816-299-4244

Facsimile: 816-299-4245

karly.weigel@lewisbrisbois.com

*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2022, the above Entry of Appearance was filed using the court's electronic filing system which will send notice to all counsel of record.

/s/ Karly D. Weigel

Karly D. Weigel

IN THE CIRCUIT COURT OF ANDREW AND BUCHANAN COUNTY  
STATE OF MISSOURI

RACHEL TOLLIVER,

Plaintiff,

v.

PREFERRED FAMILY HEALTHCARE, INC.,

Defendant.

Case No. 22BU-CC01283

**DEFENDANT PREFERRED FAMILY  
HEALTHCARE, INC.'S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S ORIGINAL PETITION FOR DAMAGES**

Defendant Preferred Family Healthcare, Inc. ("Defendant"), by the undersigned counsel, hereby files its Answer and Affirmative Defenses to Plaintiff's Original Petition for Damages ("Petition") as follows:

**PARTIES**

1. Responding to Paragraph 1 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.
2. Responding to Paragraph 2 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.
3. Responding to Paragraph 3 of Plaintiff's Petition, Defendant admits the allegations contained in this Paragraph.
4. Responding to Paragraph 4 of Plaintiff's Petition, Defendant admits the allegations contained in this Paragraph.

### **JURISDICTION AND VENUE**

5. Paragraph 5 of Plaintiff's Petition contains a legal conclusion(s) to which no response is required on behalf of Defendant. To the extent a response is required, Defendant is without sufficient knowledge and information to admit or deny the allegations, and therefore denies them.

6. Paragraph 6 of Plaintiff's Petition contains a legal conclusion(s) to which no response is required on behalf of Defendant. To the extent a response is required, Defendant is without sufficient knowledge and information to admit or deny the allegations, and therefore denies them.

7. Paragraph 7 of Plaintiff's Petition contains a legal conclusion(s) to which no response is required on behalf of Defendant. To the extent a response is required, Defendant is without sufficient knowledge and information to admit or deny the allegations, and therefore denies them.

8. Paragraph 8 of Plaintiff's Petition contains a legal conclusion(s) to which no response is required on behalf of Defendant. To the extent a response is required, Defendant is without sufficient knowledge and information to admit or deny the allegations, and therefore denies them.

9. Paragraph 9 of Plaintiff's Petition contains a legal conclusion(s) to which no response is required on behalf of Defendant. To the extent a response is required, Defendant is without sufficient knowledge and information to admit or deny the allegations, and therefore denies them.

**FACTS APPLICABLE TO ALL COUNTS**

10. Responding to Paragraph 10 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

11. Responding to Paragraph 11 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

12. Responding to Paragraph 12 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

13. Responding to Paragraph 13 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

14. Responding to Paragraph 14 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

15. Responding to Paragraph 15 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

16. Responding to Paragraph 16 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

17. Responding to Paragraph 17 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

18. Responding to Paragraph 18 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

19. Responding to Paragraph 19 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

20. Responding to Paragraph 20 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

21. Responding to Paragraph 21 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

22. Responding to Paragraph 22 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

23. Responding to Paragraph 23 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

24. Responding to Paragraph 24 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

25. Responding to Paragraph 25 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

26. Responding to Paragraph 26 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

27. Responding to Paragraph 27 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

28. Responding to Paragraph 28 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

29. Responding to Paragraph 29 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

30. Responding to Paragraph 30 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

31. Responding to Paragraph 31 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

32. Responding to Paragraph 32 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

33. Responding to Paragraph 33 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

34. Responding to Paragraph 34 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

35. Responding to Paragraph 35 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

36. Responding to Paragraph 36 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

37. Responding to Paragraph 37 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

38. Responding to Paragraph 38 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

39. Responding to Paragraph 39 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

40. Responding to Paragraph 40 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

41. Responding to Paragraph 41 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

42. Responding to Paragraph 42 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.



43. Responding to Paragraph 43 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

44. Responding to Paragraph 44 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

45. Responding to Paragraph 45 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

46. Responding to Paragraph 46 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

47. Responding to Paragraph 47 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

48. Responding to Paragraph 48 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

49. Responding to Paragraph 49 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

50. Responding to Paragraph 50 of Plaintiff's Petition, Defendant is without sufficient knowledge and information to admit or deny the allegations and therefore denies them.

#### **COUNT I: RACE DISCRIMINATION**

51. Responding to Paragraph 51 of Plaintiff's Petition, Defendant incorporates its statements and responses set forth in Paragraphs 1 – 50 as if fully set forth herein.

52. Responding to Paragraph 52 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

53. Responding to Paragraph 53 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

54. Responding to Paragraph 54 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

55. Responding to Paragraph 55 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

56. Responding to Paragraph 56 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

57. Responding to Paragraph 57 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

58. Responding to Paragraph 58 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

Responding to the unnumbered Wherefore clause, Defendant denies that Plaintiff is entitled to any of the relief sought. Defendant prays that it be dismissed from this action, awarded its costs and fees incurred, and any other relief the Court deems just and proper.

**COUNT II: DISABILITY DISCRIMINATION**

59. Responding to Paragraph 59 of Plaintiff's Petition, Defendant incorporates its statements and responses set forth in Paragraphs 1 – 58 as if fully set forth herein.

60. Responding to Paragraph 60 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

61. Responding to Paragraph 61 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

62. Responding to Paragraph 62 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

63. Responding to Paragraph 63 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

64. Responding to Paragraph 64 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

65. Responding to Paragraph 65 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

66. Responding to Paragraph 66 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

Responding to the unnumbered Wherefore clause, Defendant denies that Plaintiff is entitled to any of the relief sought. Defendant prays that it be dismissed from this action, awarded its costs and fees incurred, and any other relief the Court deems just and proper.

**COUNT III: HOSTILE AND OFFENSIVE WORK ENVIRONMENT  
BASED ON DISABILITY**

67. Responding to Paragraph 67 of Plaintiff's Petition, Defendant incorporates its statements and responses set forth in Paragraphs 1 – 66 as if fully set forth herein.

68. Responding to Paragraph 68 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

69. Responding to Paragraph 69 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

70. Responding to Paragraph 70 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

71. Responding to Paragraph 71 of Plaintiff's Petition, Defendant denies the allegations contained in this Paragraph.

**PRAYER FOR RELIEF**

Responding to the unnumbered Wherefore clause at the end of Plaintiff's Petition, Defendant denies that Plaintiff is entitled to any of the relief sought. Defendant prays that it be dismissed from this action, awarded its costs and fees incurred, and any other relief the Court deems just and proper.

**GENERAL DENIAL**

Defendant denies every allegation contained in Plaintiff's Petition unless specifically admitted herein, including the relief requested in any prayer for relief included in the non-numbered paragraphs.

**AFFIRMATIVE AND OTHER DEFENSES**

1. Plaintiff's Petition fails to state a claim, in whole or in part, upon which relief may be granted.
2. Defendant denies each allegation, count, claim, and prayer of Plaintiff's Petition which is not expressly and specifically denied herein.
3. Plaintiff's claims are barred, in whole or part, because Plaintiff received any and all compensation, benefits, or monies owed to her.
4. Plaintiff's claims are barred, in whole or in part, because any actions taken by Defendant with respect to Plaintiff were at all times taken in good faith and for legitimate reasons based on decisions that were job-related and consistent with business necessity, and not for any discriminatory, retaliatory, illegal, or wrongful purpose.
5. Defendant had legitimate business reasons for its decisions and would have made the same decisions in the absence of any alleged impermissible motivators or considerations.

6. Defendant denies that its employees or agents caused any harm, injury, or damage to Plaintiff while acting within the scope of her employment with Defendant and further denies that it engaged in any wrongful or unlawful conduct whatsoever or that Plaintiff is entitled to any legal or equitable relief.

7. Plaintiff's claims are barred, in whole or in part, because Defendant has substantially complied with all applicable statutes, regulations, laws, obligations and/or industry standards.

8. No act or omission by Defendant was the proximate cause of injury or damages allegedly suffered by Plaintiff.

9. Plaintiff's alleged damages, which Defendant explicitly denies, are not of the nature or extent alleged by Plaintiff in her Petition for Damages.

10. Plaintiff's alleged damages, which Defendant explicitly denies, were caused in whole or in part by sources other than any alleged unlawful actions or omissions by Defendant. Accordingly, any such damages should be either completely denied or apportioned according to the evidence.

11. Plaintiff's alleged damages, which Defendant explicitly denies, are speculative and uncertain, and therefore, not compensable.

12. Plaintiff's recovery, which Defendant explicitly denies, is barred, in whole or in part, by her failure to exercise reasonable care and diligence to mitigate any alleged damages. Further, Plaintiff's damages, if any, must be reduced by any actual amounts she has earned in mitigation of her damages.

13. Plaintiff is not entitled to an award for lost wages or benefits for any period during which she was unable to work.

14. Because Plaintiff's Petition is vague, ambiguous, and couched in conclusory terms, Defendant cannot fully anticipate all defenses that may be applicable to this action. Accordingly, Defendant reserves the right to further respond and assert any additional affirmative defenses as through discovery or investigation.

**DEMAND FOR JURY TRIAL**

Defendant respectfully requests a jury trial on all matters so triable.

/s/ Karly D. Weigel  
Alan L. Rupe, MO #56013  
Karly D. Weigel, MO #70410  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
4600 Madison Avenue, Suite 700  
Kansas City, Missouri 64112  
Telephone: (816) 299-4244  
Facsimile: (816) 299-4245  
alan.rupe@lewisbrisbois.com  
karly.weigel@lewisbrisbois.com

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2022, the above Defendant Preferred Family Healthcare, Inc's Answer and Affirmative Defenses to Plaintiff's Original Petition for Damages was filed using the court's electronic filing system which will send notice to all counsel of record.

/s/ Karly D. Weigel

Karly D. Weigel

**IN THE CIRCUIT COURT OF ANDREW AND BUCHANAN COUNTY, MISSOURI**

**RACHEL TOLLIVER**

*Plaintiff*

v.

**PREFERRED FAMILY  
HEALTHCARE  
INC.**

*Defendant*

CASE NO: 22BU-CC01283

**CERTIFICATE OF SERVICE**

Rachel Tolliver (Plaintiff) by and through her undersigned counsel of record, notifies the court that on December 15, 2022, it has served upon counsel for Preferred Family Healthcare Inc. (Defendant) *Plaintiff's Responses to Defendant Family Healthcare Inc's Request for Admissions* by electronic mail in both PDF and Microsoft Word formats to Defendant's counsel of record.

Respectfully Submitted,

**A.D. LITIGATION AND ESTATE PLANNING LLC.**

/s/ Antonette M. DuPree, Esq.

**Antonette M. DuPree MBN: 70039  
1301 Oak St. Suite 610  
Kansas City, MO. 64106  
Ph: (816) 643-4152  
Fax: (816) 643-4778  
Email: antonette@adlitigationep.com**

**ATTORNEY FOR PLAINTIFF**



**CERTIFICATE OF SERVICE**

I hereby certify that on December 15, 2022, a true and correct copy of the above was served by electronic mail in both PDF and Microsoft Word formats correctly addressed to:

**LEWIS BRISBOIS BISGAARD & SMITH LLP.**

Alan Lloyd Rupe                      MBN: 56013  
Karly Weigel                        MBN: 70410  
4600 Madison Ave.  
Suite 700  
Kansas City, MO. 64112  
Ph:    (816) 299-4244  
Fax:   (816) 299-4245  
Email: alan.rupe@lewisbrisbois.com  
       [karly.weigel@lewisbrisbois.com](mailto:karly.weigel@lewisbrisbois.com)

**ATTORNEYS FOR DEFENDANT**



<b>Description</b>	8:30 docket		
<b>Date</b>	12/9/2022	<b>Location</b>	[BUCWC00018]

Time	Speaker	Note
8:35:58 AM	Judge	on record
8:36:03 AM		15BU-CV03594
8:37:35 AM		22BU-CC00754
8:38:08 AM		22BU-CC01325
8:38:47 AM		22BU-CC00413
8:39:58 AM		22BU-CC00950
8:40:45 AM		22BU-CC00953
8:42:38 AM		22BU-CC01256
8:44:42 AM		22BU-CC01283
8:47:03 AM		22BU-CC01282
8:47:33 AM		off record
8:48:15 AM		22BU-CC01282 continued
8:51:28 AM		end

IN THE CIRCUIT COURT OF ANDREW AND BUCHANAN COUNTY  
STATE OF MISSOURI

RACHEL TOLLIVER,

Plaintiff,

v.

PREFERRED FAMILY HEALTHCARE, INC.,

Defendant.

Case No. 22BU-CC01283

**CERTIFICATE OF SERVICE**

Defendant Preferred Family Healthcare, Inc., by the undersigned counsel, hereby certifies that its First Request for Admissions to Plaintiff was served by electronic mail on November 28, 2022, upon the following:

Antonette M. DuPree  
antonette@adlitigationep.com

*Attorney for Plaintiff*

/s/ Karly D. Weigel  
\_\_\_\_\_  
Alan L. Rupe, MO #56013  
Karly D. Weigel, MO #70410  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
4600 Madison Avenue, Suite 700  
Kansas City, MO 64112  
Telephone: 816-299-4244  
Facsimile: 816-299-4245  
alan.rupe@lewisbrisbois.com  
karly.weigel@lewisbrisbois.com

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2022, the above Certificate of Service was filed using the court's electronic filing system which will send notice to all counsel of record.

/s/ Karly D. Weigel  
\_\_\_\_\_  
Karly D. Weigel